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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/893,897 | 06/29/2001 | Osamu Toyama | 48864-039 | 4937 |
| 7590 | 12/30/2005 | | EXAMINER | |
| MCDERMOTT, WILL & EMERY 600 13th Street, N.W. WASHINGTON, DC 20005-3096 | | | NGUYEN, PHU K | |
| | | ART UNIT | PAPER NUMBER | |
| | | 2673 | | |

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/893,897 | TOYAMA ET AL. | |
| | Examiner | Art Unit | |
| | Phu K. Nguyen | 2673 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 October 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5, 7, 8, 11 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-5 and 17 is/are allowed.
- 6) Claim(s) 7, 8, 11, 16, 18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

PHU K. NGUYEN
PRIMARY EXAMINER
GROUP 2300

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-8, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by TAKEUCHI et al. (5,267,154).

As per claim 11, Takeuchi teaches the claimed “method for modifying a standard model based on measured data”, comprising the steps of: “dividing the standard model into a first standard model and a second standard model which are related to each other by means of corresponding points or corresponding lines” (Takeuchi, column 5, line 67 to column 6, line 22; measurements of the biological human body);

“modifying the first standard model based on the measured data” (Takeuchi, column 6, lines 2-11; e.g., head portion model – figure 3B) and
“modifying the second standard model based on the measured data and based on the corresponding points or the corresponding lines of the modified first standard model.” (Takeuchi, column 6, lines 14-22; the head model is fitted with hair model, cloth model, ... based on the shape or points of human body).

Applicant’s arguments filed on October 12, 2005 have been fully considered but they are not deemed to be persuasive. Applicant argues that the cited reference fails to teach that both First and Second models are modified based on the measured data. Applicant argues that “Takeuchi’s first model is modified based on measured data, but

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his second model is modified based on the (modified) first model but not on the measured data" which is not correct. Since Takeuchi's second model depends on the modified first model which itself depends on the measured data, therefore, the modified second model must depends on the measured data indirectly through the modified first model. Accordingly, the claimed invention as represented in claim 11 does not represent a patentable distinction over the art of record.

Claim 7 adds into claim 11 "the first standard model is a model representing a human face" (Takeuchi, figure 3B; head model), the second standard model is a model representing human hair (Takeuchi, figure 3B; hair model) and the measured data is obtainable by measuring a human face and human hair (Takeuchi, column 8, lines 37-43; measurements of the biological human body).

Claim 8 adds into claim 11 "a plurality of the second standard model may be used" (Takeuchi, the hair models, column 9, lines 25-28; cloth models; column 9, line 57 to column 10, line 39).

Claims 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by KELLAS et al. (5,142,616).

As per claim 16, Kellas teaches the claimed "method for modifying a standard model having a plurality of control points defined thereon, wherein the standard model is

modified by manipulating the control points”, comprising the steps of: “modifying the standard model to be conformed to the measured data by changing positions of a part of the plurality of control points defined on the standard model” (Kellas, the modification at a low resolution standard model; column 12, lines 24-36) and “modifying the modified standard model in order to have the standard model more conformed to the measured data by changing positions of a part of the plurality of control points whose number is larger than that of the part of the control points which have been used in the previous modification or by changing whole the plurality of control points” (Kellas, the second modification can be applied in the high-resolution modified standard model; col. 13, lines 40-50).

Applicant’s arguments filed on October 12, 2005 have been fully considered but they are not deemed to be persuasive. Applicant argues that Kellas does not teach the step of “modifying the (modified) standard model by using high-density control point.” In claim 16, the further modification of the modified standard model is done “by changing positions of a part of the plurality of control points whose number is larger than that of the part of the control points which have been used in the previous modification or (emphasis added) by changing whole the plurality of control points.” Kellas teaches that the second modification can be applied in the high-resolution modified standard model (col. 13, lines 40-50) which was previously modified through a low-density control point model; therefore, Kellas teaches the claimed “modifying the modified standard model in order to have the standard model more conformed to the measured data by changing positions of a part of the plurality of control points whose number is larger than that of

the part of the control points which have been used in the previous modification or by changing whole the plurality of control points".

Claim 18 adds into claim 16 "the part of the plurality of control points whose positions are changed in the step of modifying the standard model are low-density control points" (Kellas, the modification at a low resolution standard model; column 12, lines 24-36); "the part of the plurality of control points whose positions are changed in the step of modifying the modified standard model are high-density control points" (Kellas, the second modification can be applied in the high-resolution modified standard model which is in high resolution image data including the low resolution image data through down sampling; column 8, lines 50-63; col. 13, lines 40-50); and "the low-density control points are determined by reducing control points from the high-density control points" (Kellas, the low density image data is obtained from the high density image data through down sampling process; column 8, lines 50-63).

Claims 1-5 and 17 are allowable.

The following is an examiner's statement of reasons for allowance: A method for modifying a standard model based on measured data, comprising the step of deciding whether to further modify the standard model or to finish the modification of the standard model based on integrated evaluation of two or more functions selected from a first function relating to a distance between the standard model and the measured data, a second function relating to a distance between a characteristic point defined on the

standard model and a characteristic point specified on the measured data and corresponding to the characteristic point defined on the standard model and a third function relating to a distance between an outline defined on the standard model and an outline specified on the measured data and corresponding to the outline on the standard model.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phu K. Nguyen whose telephone number is (571) 272 7645. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, bipin Shalwala can be reached on (571) 272 7681. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phu K. Nguyen
December 27, 2005

Phu Nguyen
PHU K. NGUYEN
PRIMARY EXAMINER
GROUP 2300